

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

R.H. Donnelley	:	
	:	07-0434
Petition for Variance of Section 735.180 of	:	
the Illinois Administrative Code.	:	

AMENDATORY ORDER

By the Commission:

I. Procedural History

On October 24, 2007, the Illinois Commerce Commission ("Commission") entered an order Docket 07-0434 (the "Order") approving a petition for variance by R.H. Donnelley ("RHD" or the "Company") pursuant to 220 ILCS 5/13-513 and 83 Ill. Adm. Code § 735.50. In summary, the Order relieves RHD's regulatory obligation to generally distribute the city-wide Residential White Pages to all City of Chicago residential customers on an annual basis provided RHD delivers to all customers a copy of their local neighborhood directory and distributes the city-wide Chicago Residential White Pages upon request. In addition to several other commitments made by RHD, the Order obligates RHD to notify its customers that the city-wide White Pages remain available upon request. This was to be accomplished by printing a notification within the Yellow Pages and the Neighborhood Directories as well as by providing a loose leaf filler (or insert) at the time of delivery of the directories.

On June 15, 2009, RHD filed its verified Petition to Modify the Order in Docket 07-0434, Regarding Notification of Availability of City-Wide White Pages (the "Petition"), due notice having been given. Specifically, the Petition requests the Commission modify the requirement that RHD must notify its customers by providing the loose leaf notification inserts. Several Attachments were made part of the Petition which set forth the substance of the Company's proposed substitute notification. RHD also had requested expedited treatment pursuant to Section 200.25 of the Commissions Rules of Practice. 83 Ill. Adm. Code § 200.25. On June 25, 2009 the Commission granted the Company's request, in part, and authorized the re-opening of the record. A prehearing status took place on June 29, 2009, at which representatives of the Staff and the Attorney General appeared. The Attorney General's office stated no objection to the Petition at the prehearing status. The Staff filed the Verified Statement of Deborah Lewis-Johnson on June 29, 2009. Also on June 29, 2009, the Company filed a Motion for Paper Hearing stating there were no contested issues between it and Staff. No other party filed a response to the Company's Petition. The Company filed a Draft Order on July 1, 2009. Since there were no issues in dispute, the Motion for a Paper Hearing was granted and the record was marked "Heard and Taken" on July 1, 2009.

II. R.H. Donnelley's Request

The Company seeks, pursuant to Section 200.900. 83 Ill. Adm. Code § 200.900, to modify the Order. RHD requests modification of the requirement that it provide loose leaf inserts at the time of delivery of the Chicago Consumer Yellow Pages and the Neighborhood Directories notifying customers that the city-wide White Pages remain available upon request. In lieu of using inserts, RHD proposes and commits to notify its customers by printing a second, substantial notification within the table of contents of the Chicago Consumer Yellow Pages, Neighborhood Directories and the Chicago Consumer Plus directories. It is RHD's position that an additional printed notification contained within the directories, and not as a loose leaf attachment, is an efficient and permanent substitute for inserts and will provide effective notice to RHD's customers.

III. Staff's Response

Staff has reviewed the Petition and attachments, is of the opinion that RHD has satisfied applicable requirements, and has no objection to the Commission granting RHD the relief sought. As more fully set forth in the Verified Statement of Deborah Lewis-Johnson, filed June 29, 2009, RHD's proposal is unlikely to result in customer harm, and may in fact afford some benefit to users of the directory, in light of the fact that, while a loose-leaf insert may readily be discarded, multiple notifications within the directory itself will remain available for reference throughout the life of the directory.

Accordingly, in Staff's opinion, the Petition does not seek relief that, if granted, would be harmful to competition, and the Staff is of the opinion that, if RHD takes the steps that it has represented to Staff that it will take, customers will not be harmed in the aggregate. The Staff is not in a position to speak to the burden imposed on RHD by compliance.

In summary, the Staff has no objection to RHD's Petition, and sees no reason why the Commission should not grant it in its entirety.

IV. Findings and Ordering Paragraphs

The Commission having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction of the parties hereto and the subject matter hereof;
- (2) the recital of facts and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (3) there are no contested issues raised by the Petition and the Company's Motion for a Paper Hearing was granted;
- (4) the requested modification is granted subject to the commitment made by R.H. Donnelley to continue to notify its customers that city-wide White Pages remain available upon request and by printing an additional

notification of its availability within the table of contents of the Chicago Consumer Yellow Pages, Neighborhood Directories and the Chicago Consumer Plus directories; and

- (5) printing an additional notification within the table of contents of the Chicago Consumer Yellow Pages, Neighborhood Directories, and the Chicago Consumer Plus directories is an effective substitute to providing loose leaf inserts, the requested modification will not harm customers or impede competition, and there is no statutory mandate prohibiting the modification.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Petition to Modify Order No. 07-0434 requested by R.H. Donnelley is approved pursuant to 220 ILCS 5/10-113 and 83 Ill. Adm. Code § 200.900.

IT IS FURTHER ORDERED that this Amendatory Order amends the Order entered in Docket No. 07-0434 on October 24, 2007, and all modifications granted herein have the same effect as if provided for in that original order.

IT IS FURTHER ORDERED that R.H. Donnelley shall comply with the commitments described herein.

IT IS FURTHER ORDERED that R.H. Donnelley shall continue to comply with the commitments as ordered on October 24, 2007, except for any such commitment(s) specifically described and modified herein.

IT IS FURTHER ORDERED that this Order is final; it is not subject to the Administrative Review Law. Petition for Variance of Section 735.180 of the Illinois Administrative Code.

By Order of the Commission this 8th day of July, 2009.

(SIGNED) CHARLES E. BOX

CHAIRMAN